



Comptroller General
of the United States

Washington, D.C. 20548

535245

Decision

Matter of: Purification Environmental--Reconsideration

File: B-259280.2

Date: May 25, 1995

DECISION

Purification Environmental requests reconsideration of our decision, Purification Envtl., B-259280, Mar. 14, 1995, 95-1 CPD ¶ 142, in which we dismissed its protest challenging the specifications for flight-line oil/water separators identified in invitation for bids (IFB) No. N62470-93-B-3203, issued by the Department of the Navy, Naval Air Station, Oceana, Virginia Beach, Virginia. Purification contends that our decision to dismiss its earlier protest was based on a misunderstanding of its protest issues.

We deny the request for reconsideration.

Our Office dismissed Purification's initial protest after concluding that the issues raised were not appropriate for resolution in our forum. In this regard, our decision explained that Purification's protest argued that there is a need for more stringent requirements that were omitted from the current specifications; complained about the Navy's alleged failure to assure compliance with environmental regulations; and asserted that the Navy's identification of potential offerors is based on an erroneous view of the agency's needs. After considering these issues, we concluded that Purification's protest raised matters unrelated to our role in ensuring that the statutory requirements for full and open competition are met. Id. at 3.

In its request for reconsideration, Purification claims that our Office mischaracterized its earlier protest and failed to recognize that the protest challenged the technical adequacy and ambiguity of the Navy's specifications. To permit Purification to explain its contentions, our Office convened a conference call among representatives of Purification, the Navy, and our Office. During the course of this call, Purification explained that while the Navy's specifications for oil/water separators are

not restrictive,¹ Purification believes they will result in the purchase of separators that will have to be cleaned frequently, and might fail to work effectively over time. Purification also contends that the solicitation contains references that are unclear, and permits offerors to offer more than one type of equipment which cannot be compared rationally.

With respect to the type of equipment, Purification complains--as it did in its initial protest--that the Navy's decision to permit offerors to submit bids for oil/water separators based on either adsorption technology or gravity separation technology is illogical because one of the technologies is significantly more costly. While we understand Purification's point, we fail to see how this approach violates any of the applicable statutory requirements for full and open competition. Similarly, Purification's assertion that at least one of the Navy's incorporated technical references does not support its position that the two technologies result in the same amount of effective surface area, also does not support a conclusion that the solicitation is improper. Rather, this assertion reflects Purification's belief that the Navy does not understand the ramifications of the different technologies on its equipment, and will fail to purchase equipment that will work effectively over its expected useful life.

With respect to Purification's claim that the specifications here are ambiguous, we note that Purification does not contend that it would be unable to provide oil/water separators that meet the government's needs. Rather, Purification contends that its price for separators under the terms of the solicitation would not be competitive. According to Purification, other potential offerors are not sufficiently sophisticated about the issues involved in oil/water separation to identify the ambiguities inherent in the solicitation and referenced documents. We note, however, that other bidders responded to this IFB and that the Navy will be receiving oil/water separators under the terms of this solicitation in the near future.

Finally, the conference call held in connection with the request for reconsideration confirmed that Purification's concerns go to whether the Navy's specifications will result in the best possible equipment, as opposed to whether the specifications are improperly restrictive, ambiguous, or incomplete. Although Purification explains that it will

¹In this regard, Purification admits that "[a]t no time ever have we asserted that the specifications were unduly restrictive of competition."

mount a campaign to routinely challenge the government's specifications used in oil/water separator procurements, it recently withdrew a threatened protest after a procuring agency agreed to amend its solicitation to add a requirement to the solicitation advising potential offerors they would be held responsible if the proposed oil/water separators did not work as offered over the expected useful life of the equipment. That Purification's concerns could be addressed by requiring a promise that the successful bidder would indemnify the agency, buttresses our view that Purification's challenge raises issues about the adequacy of the Navy's specifications to achieve the desired end, but not issues related to whether the specifications violate the requirements for full and open competition.

Since we conclude that Purification has not shown that our prior decision contained errors of fact or law, and has not presented information not previously considered that warrants reversal or modification of the decision, see 4 C.F.R. § 21.12(a) (1995), we see no basis to reconsider our earlier decision.

The request for reconsideration is denied.



Michael R. Golden
Acting Associate General Counsel